

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JAMES BERNARD JONES,	)	
	)	
Petitioner,	)	
	)	1:12CV838
v.	)	1:06CR451-1
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

ORDER

On March 12, 2014, the United States Magistrate Judge's Recommendation was filed and notice was served on the parties pursuant to 28 U.S.C. § 636. No objections to the Recommendation have been filed. Therefore, the Court need not make a *de novo* review and the Magistrate Judge's Recommendation [Doc. #71] is hereby adopted.

IT IS THEREFORE ORDERED that Respondent's Motion to Dismiss [Doc. #57] is deemed withdrawn, that Petitioner's Motion to Vacate, Set Aside or Correct Sentence [Doc. #45] is granted as to his claims under Simmons, that the sentence set out in the Judgment [Doc. #21] is vacated, and that Count Three of the Indictment is dismissed. The Clerk is directed to set this matter for resentencing as to Count One of the Indictment. Petitioner remains in custody, and the United States Attorney is directed to produce Petitioner for the resentencing hearing. The Probation Office is directed to prepare a Supplement to the Presentence

Investigation Report in advance of the hearing. Counsel will be appointed to represent Petitioner at the resentencing hearing.

This, the 11<sup>th</sup> day of April, 2014.



James A. Bechtel  
United States District Judge